**IN THE HIGH COURT OF JUDIATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.2953 OF 2003**

Suresh Eknath Kulkarni .. Petitioner
Vs.
Pandharinath Shankarrao Kulkarni .. Respondent.

Mr.M.L.Patil for the petitioner.
Mr.M.A.Utagikar for the respondent.

**CORAM : D.B.BHOSALE, J.**

**DATED : 21ST FEBRUARY, 2005**

P.C.:

. Heard Mr.Patil, learned counsel for the petitioner and Mr.Utagikar, learned counsel for the respondent.

2. This petition is directed against the concurrent findings recorded by the courts below in the proceedings arising out of Exhibit 5 application filed by the petitioner-plaintiff. The petitioner had prayed for injunction, restraining the respondent from erecting structure or encroaching upon the portion of land in dispute. Admittedly, after dismissal of the Miscellaneous Appeal No.157 of 2002 by the judgment and order dated 30.1.2003 no interim order was passed in the present writ

petition. It is common ground between the learned counsel appearing for the parties that after dismissal of the appeal on 30.1.2003 the respondent has completed the construction and in view thereof present writ petition has become infructuous. The petition is, accordingly, disposed of as infructuous. It is open for the petitioner to move the Court for appropriate orders in the application Exhibit 7, if it is still pending.

**(D.B.Bhosale, J.)**